



Senate Republican Office of Policy

Briefing Report

The Debate About Three Strikes

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Background

The “Three Strikes” laws are a pair of identical statutes, one enacted from a bill introduced in the Legislature and the other enacted by an initiative measure, Proposition 184 approved by the voters in 1994.

The Three Strikes law provides that, if a defendant is convicted of a felony of any kind and was previously convicted of a single “serious” or “violent” felony—if he has two previous strikes—he must be sentenced to a term of imprisonment as follows:

- If he would have otherwise have been sentenced to a term of imprisonment for a fixed duration (“determinate term”), he must now be sentenced to a determinate term that is twice as long as it otherwise would have been.
- If he would have been sentenced to a term which is not of a fixed duration but with a minimum term of years that must be served (“indeterminate term”), then he must now be sentenced to an indeterminate term with a minimum term that is twice as long as it otherwise would have been.

Likewise, the Three Strikes law provides that, if a defendant is convicted of a felony **of any kind** and was previously convicted of at least two felonies defined as serious or violent (strikes), this would give him three strikes and he must be sentenced to an “indeterminate term” of life imprisonment with a minimum term of no less than 25 years.

Finally, the Three Strikes law provides an additional sentencing enhancements for individuals who have at least one previous “strike” conviction which provides that they must serve at least 80% of their minimum term.

The Debate

Three Strikes has proved a successful crime deterrent, getting violent criminals off the streets. Opponents have attacked Three Strikes on several fronts since its inception, but a close examination of their points paints a different picture.

◆ Myth #1: *“Three Strikes Doesn’t Work”*

It is simply preposterous to assert that Three Strikes has not had an impact on crime in California. After 20 years of an unprecedented and uninterrupted rise in the crime rate, California witnessed a drop in crime rates almost immediately after the enactment of the Three Strikes law. Crime rate levels are lower than they have been since the 1960’s.

Year	Violent Crimes	Rate Per 1,000	% Drop (cumulative)
1993	336,100	1,058.9	-----
1994	318,946	992.4	6.3%
1995	304,998	951.2	10.2%
1996	274,675	848.2	19.9%
1997	257,409	781.1	26.2%
1998	229,766	686.0	35.2%
1999	209,765	626.3	40.9%

Between 1993, the year before the implementation of Three Strikes, and 1999, there was an unprecedented 40.9% drop in the violent crime rate of California. This rate decrease equals 421,041 violent crimes that were not committed in California after the implementation of Three Strikes.

Similarly, the statistics show a corresponding 49.5% decrease in the rate of property crimes in California since the implementation of Three Strikes. This decrease in the rate of property crime is equal to 1,134,329 property crimes that were not committed against Californians.

Are there other possible explanations for this unprecedented drop in California’s crime rate? Maybe, but the evidence is too strong to deny that the enactment of a law which puts criminals—who have made a life-long career of committing serious and violent felonies—away for a very, very long time, is directly responsible for the corresponding drop in the crime rate after its enactment. Even one of the law’s staunchest opponents, Gerald Uelman, a Santa Clara University law professor, agrees: “In terms of taking people off of the streets, I think it’s had some effectiveness.”

◆ **Myth #2: “Three Strikes Law Is Creating Over-Crowded Prisons”**

Early predictions that the implementation of Three Strikes would rapidly overload the California prison system have proven untrue. The Fall 1994 prison population in California was approximately 125,000 inmates. Before Three Strikes passed, the California Department of Corrections projected a 52% increase in the prison population—to 190,000 inmates by 1998. The actual population in 1998 was 158,207 prisoners—only a 27% increase and nearly 30,000 fewer inmates than originally predicted. After an initial flurry of convictions, Three Strikes prosecutions have declined steadily. The number of these offenders now doing the “25-years-to-life” sentences authorized by “Three Strikes” accounts for a mere 4% of inmates in California’s prisons.

Since 1996, Three Strikes prosecutions have tailed off drastically. That year, there were 1,382 third strike convictions; in 2000, there were 829; and through October of 2001, there had been only 536. Rather than creating overcrowded prisons, the Three Strikes law has effectively cleaned the streets of the most hardcore offenders—felons who most likely would have been in and out of prison anyway.

◆ **Myth #3: “Three Strikes Law Is Too Expensive”**

During the initial debate on Three Strikes, much discussion was constantly focussed on the cost of implementing Three Strikes, but little attention was paid to the vast economic benefits a society realizes from reduced crime.

While it is impossible to place a dollar value on the loss of a life or the physical and emotional damage caused by rape and other violent crimes, the National Institute of Justice, in 1996, attempted to measure the tangible and intangible costs of crime. The tangible costs include productivity lost, medical care, public safety services, victim services, and property damage losses. The other figures include intangible costs such as quality of life.

Crime	Tangible cost per crime	Overall cost per crime
Murder	\$1,030,000	\$2,940,000
Rape	5,100	87,000
Robbery	2,300	8,000
Assault	1,550	9,400
Burglary	1,100	1,400
Motor Vehicle Theft	3,500	3,700

When the costs are multiplied by the number of crimes that **were not** committed (according to the numbers in the previous section) during the crime drop experienced since 1994, a range of economic savings to the community can be estimated.

	Crimes not Committed	Tangible costs	Overall costs
Murder	5,694	\$5,864,820,000	\$16,740,360,000
Rape	6,923	35,307,300	602,301,000
Robbery	172,045	395,703,500	1,376,360,000
Assault	111,223	172,395,650	1,045,496,200
Burglary	454,654	500,119,400	636,515,600
Motor Vehicle Theft	339,082	1,186,787,000	1,254,603,400
Total	1,089,621	\$8,155,132,850	\$21,655,636,200

Therefore, simply by looking at the number and price of the crimes not committed, the economic savings to the people of California from the reduction in crime during the Three Strikes era is between \$8.2 billion and \$21.7 billion.

The debate over Three Strikes should not be the overall cost of implementation. Instead it should center on the costs avoided by the taxpayers in preventing these habitual felons from the streets where they continue to terrorize innocent citizens.

◆ **Myth # 4: “Three Strikes Law Sends Minor Criminals To Prison For Life”**

First, a prosecutor does not have to allege every prior or current felony conviction as a “strike.” Most prosecutors have committees which review all prior strikes and prosecute under “Three Strikes” in cases where they believe the defendant poses a threat to society.

Second, a judge has the ability to dismiss a strike in the furtherance of justice. In those cases where a judge believes that what could be a third strike would be inappropriate, they can dismiss one of the previous strike priors and nullify the third strike.

Third, the defendant must have two previous violent and/or serious felony convictions. In other words, the defendant must have already been found guilty of two of the worst of the worst felonies. Then, and only then, can any felony serve as a third strike.

So, assuming that the defendant has been convicted of two serious and/or violent felonies, had those strikes alleged by the prosecutor, and not had any of the strikes dismissed by the court, then yes, his next felony conviction will result in at a prison sentence of at least 25 years. After the defendant has committed these crimes, it should be our duty to remove the defendant from our communities for at least 25 years in order to prevent future victims.

By definition, a felon convicted under Three Strikes is a repeatedly convicted violent felon. When the felon is being convicted of a non-violent felony as a third strike, the question is not “why is the career felon being incarcerated for 25 years for a non-violent felony?” The question is “why should we wait for another innocent victim to be raped

by a proven violent felon?" Strikers have a pattern of committing violent crimes, it's not a matter of *if*, but of *when*.

Bottom Line

The Three Strikes law works and it has been instrumental in drastically reducing the crime rate in California by locking up the career violent felons that previously used the prison as a weigh-station between stints of terrorizing their communities. Yes, many are sent to prison for a very long time on the third strike for a felony that is not necessarily violent, however, given the career criminal histories of a perpetrator facing a third strike, the state should breathe a collective sigh of relief when they are convicted for these crimes. Convicted before they have had a chance to rape or murder another innocent victim.